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Attorney for Defendant, DANIEL BOOBAR

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	)	CASE NO. CR-F-02-5301 OWW
Plaintiff,	)	DECLARATION OF ATTORNEY ERIC
vs.	)	K. FOGDERUDE IN SUPPORT MOTION TO
DANIEL BOOBAR,	)	DISMISS OR ALTERNATE MOTION FOR
Defendants.	)	NEW TRIAL
	)	Date: February 6, 2006
	)	Time: 1:30 p.m.
	)	Judge: Honorable Oliver W. Wanger

I, Eric K. Fogderude declare as follows:

1. I am the attorney of record for Defendant Daniel Boobar.

2. I have prepared a pleading entitled Motion Exhibits In Support of Motion to Dismiss or Alternate Motion for New Trial.

3. Attached to that pleading are exhibits numbered 1-4, 6-9 and 11, which are accurate copies of informal discovery requests, letters or government responses thereto which were mailed on or about the dates set forth on the letters.

4. Attached to that pleading is an exhibit numbered 5 entitled revised proposed order regarding discovery sanction is a copy of the proposed order related to the granting of Defendant Boobar s Motion for Sanction for Failure to Comply with Discovery Order filed January 26, 2004. I have not been able to locate a signed copy of the proposed order.

5. Attached to that pleading is an exhibit numbered 10 which is a transcript prepared by my office of an audio tape provided to me by the government on October 24, 2005, which audio tape was represented to be of Michael Harland s statement made at the time of his arrest on March 12, 2002.

6. Attached to the exhibit numbered 11, is a Discovery Itemization Exhibit setting forth the type of post conviction discovery provided and the dates of disclosure.

7. I have reviewed the 136 U.S. Customs reports set forth in the itemization attached to the exhibit numbered 11, which reports I am advised represents all of the U.S. Customs reports related to the Boobar investigation. None of those reports contain any interviews of Harland and/or Emmerson related to Boobar s alleged involvement in the conspiracy charged.

8. Handwritten notes of U.S. Customs agent Prado of his interviews with Emmerson on March 29, 2004 and April 16, 2004, and the interviews of Harland on February 25, 2004, April 9, 2004 and April 15, 2004 were provided during trial.

I declare under penalty of perjury under the laws of the United States that the above stated declaration is true and correct and was executed in Fresno County, California, on this 9<sup>th</sup> day of January.

/s/ Eric K. Fogderude  
ERIC K. FOGDERUDE, Declarant  
Attorney for Defendant,  
DANIEL BOOBAR